Michigan Criminal Background Checks Program Briefing Points

Current Laws and Status:

Currently, Michigan's long term care criminal background check law applies only to Nursing Homes, County Medical Care Facilities, and Homes for the Aged and to Adult Foster Care facilities. For individuals in the state for more than three years, the check consists primarily of a "name" check on the Internet Criminal History Tool (ICHAT). Individuals who have not been in the state for at least three years are required to have an FBI fingerprint check. However, many long term care settings are not currently required to do background checks. This includes Psychiatric Hospitals, Hospices, Home Health Programs, Long Term Care Hospitals, and ICF/MRs. Further, Michigan's current law does not fully meet federal standards because it does not include all prohibited offenses and substantiated findings under abuse and neglect as required by the Social Security Act.

And, current testing takes too long. Currently, if you sign an affidavit upon being hired, you can work temporarily for 90 days - the time it takes for your background check to clear. Finally, unlike many states, Michigan does not do criminal background checks on newly licensed health professionals under the public health code.

Program Description:

In September 2004, Michigan competed for received federal approval as one of seven Federal Background Check Pilot Project states under the Medicare Modernization Act of 2004. As a pilot project state, CMS has awarded $5,000,000 over thirty months beginning in January 2005 to implement a model background check program consistent with federal requirements. The Michigan Criminal Background Checks Program is a collaborative partnership between the:
- Federal Centers for Medicaid and Medicare Services (CMS)
- Michigan Department of Community Health,
- Michigan Department of Human Services,
- Michigan State Police; and
- Michigan State University

to expand and improve the criminal background checks for those employees working in or having direct client access in Michigan's long term care settings.

Six Key Features of the program:

1. **Expand the Scope of Michigan's Laws:** New state authority and legislation to expand criminal background check to all long term care settings currently regulated by the state and to all new health professions applicants. This will help to protect Michigan's long term care residents by ensuring that individuals with criminal backgrounds don't simply apply for employment at a different type of long care setting. It will also prohibit health professionals banned from working other states with background checks from getting employment in Michigan.

2. **Strengthen the power and comprehensiveness of Michigan's Criminal Background Checks.** Require full compliance with all federal requirements and require a full federal

fingerprint test as well as a state criminal check and a check of all state and national registries (e.g. Nurse Aide, Sexual Offender, etc) for substantiated findings of abuse and neglect and other misconduct.

3. **Provide Due Process:** Creating an appeal board and establish due process appeal rights for individuals wrongfully denied employment because of an inaccurate or incomplete background check (e.g. factual error of identity theft).

4. **Speed up the process and enhance accuracy:** Create an enhanced electronic infrastructure and distributed electronic fingerprint capability so that turnaround time for federal fingerprint checks can be reduced from 60- 90 days to 2-8 days and increase accuracy by using electronic transmission rather than traditional ink card rolled prints. This protects employers and employees by speeding up the time needed for a clearance or rejection. The Michigan State Police (MSP) has contracted with Identix Identification Services to provide automated applicant fingerprint submissions. Identix is currently working to establish a statewide mobile fingerprinting process.

5. **Implement the Michigan Adult Abuse and Neglect Prevention (AANP) Training Program:** Provide the tools necessary for current long term care workers and administrator to recognize abuse and neglect and to respond appropriately by training 176 trainers and 11,000 long-term care direct access staff in abuse and neglect prevention, culture change and de-escalation techniques using adult-learner models to prevent abuse. During the first six months, the project team-- Bringing the Eden Alternative to the Midwest (BEAM), the Michigan Department of Community Health (MDCH)---Office of Services to the Aging (OSA) and Michigan State University (MSU)--focused on beginning the curriculum development; hiring staff; providing outreach and updates to long-term care providers, advocates and government representatives; and establishing the AANP Advisory Committee.

6. **Objective and rigorous evaluation:** Evaluate the effectiveness of the entire Criminal Background Check Program by working with MSU and federal CMS contract evaluators and researchers to assess the effectiveness and efficiency of the program in preventing prohibited individuals from gaining access to our vulnerable citizens, to evaluate the effectiveness of the training, and to assess the efficiency of the system in providing timely, accurate information to providers and applicants.

Progress to date:

- **CMS has awarded Michigan the first $3,000,000 of the $5,000,000 grant.**
- **The background check legislative package is ready for introduction and has been reviewed and approved by CMS as meeting all requisite federal standards.**
- **The project has been supported by virtually every major long term care professional association, Quality Assurance Advocacy Groups, and Employee Organizations.**
- **MSP has initiated electronic fingerprint process.**